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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,869	11/05/2003	Todd M. Goin	200310588-1	6726

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EXAMINER

TRAN, NGHI V

ART UNIT	PAPER NUMBER
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2151

MAIL DATE	DELIVERY MODE
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11/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/701,869	Applicant(s) GOIN ET AL.	
	Examiner Nghi V. Tran	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment filed on September 05, 2007. Claims 5 and 17 have been amended. No claims have been canceled. Therefore, claims 1-20 are presented for further examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 4-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Grieve et al., United States Patent Application Publication Number 2003/0149756 (hereinafter Grieve).

4. With respect to claim 1, Grieve teaches a method of adjusting relative value of implemented computer configuration changes [see abstract and paragraphs 0007-0009], the method comprising:

- identifying computer configuration changes in a computer system [i.e. the system will detect the new device as having a configuration, which has changed since its last update, paragraph 0151];
- obtaining performance metrics for the computer system before and after computer configuration changes [i.e. comparing old and new configurations] implemented in the computer system [paragraph 0033 and see abstract]; and
- assessing effectiveness of the computer configuration changes based on the obtained performance metrics [paragraphs 0116-0162].

5. With respect to claim 4, Grieve further teaches removing computer configuration changes not resulting in performance improvements from future recommendation sets [paragraphs 0026, 0045, 0049, 0072, 0080, 0082, 0098, 0114, and 0151].

6. With respect to claim 5, Grieve further teaches summarizing recommended actions identified for a computer user, configuration changes implemented, and the resulting change in performance [i.e. schedule summary **205**, paragraphs 0042 and 0083].

7. With respect to claim 6, Grieve further teaches providing a report with performance trends on a plurality of computer systems where recommended configuration changes are not implemented [see abstract and fig.10].

8. With respect to claim 7, Grieve further teaches analyzing computer metrics on the computer system and proposing configuration changes based on the analysis of computer metrics [fig.1 and paragraph 0004].

9. With respect to claim 8, Grieve further teaches wherein obtaining performance metrics for the computer system before and after computer configuration changes comprises accessing stored computer metrics in a database [i.e. database manager 108, fig.1].

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grieve as applied to claim 1 above, and further in view of Little et al., United States Patent Number 6,678,639 (hereinafter Little).

12. With respect to claim 2, Grieve does not explicitly show increasing priority values for computer configuration changes resulting in performance improvements, the priority

values being used for priority of the computer configuration changes in future recommendation sets.

In a configuration method, Little suggests increasing priority values for computer configuration changes resulting in performance improvements, the priority values being used for priority of the computer configuration changes in future recommendation sets [see abstract and col. 2, ll. 09-42].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Grieve in view of Little by increasing priority values for computer configuration changes resulting in performance improvements because this feature might instruct the user that when a new hardware or software system is being deployed [Little, col. 20, ll. 23-63]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to instruct the user to upgrade the firmware to the latest firmware [Little, col. 7, ll. 59-67].

13. With respect to claim 3, Grieve does not explicitly show classifying computer configuration changes not resulting in performance improvements as secondary recommendations in future recommendation sets.

In a configuration method, Little further teaches classifying computer configuration changes not resulting in performance improvements as secondary recommendations in future recommendation sets [fig.29 and col.7, ll.16 through col.8, ll.62].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Grieve in view of Little by classifying computer configuration changes not resulting in performance improvements as secondary recommendations in future recommendation sets because this feature might instruct the user that when a new hardware or software system is being deployed [Little, col. 20, ll. 23-63]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to instruct the user to upgrade the firmware to the latest firmware [Little, col. 7, ll. 59-67].

14. Claims 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grieve in view of Little.

15. With respect to claims 9, 11, and 14-18, Grieve teaches a system [see abstract and paragraphs 0007-0009] comprising:

- hardware components in a computer system [fig.1];
- installed software in the computer system [fig.1];
- configuration settings indicating configuration conditions for the hardware components and the installed software [fig.1]; and
- programmed instructions configured to: identify implemented configuration changes in the computer system [paragraph 0151]; collect performance metrics associated with the computer system having the identified

implemented configuration changes [see abstract and paragraphs 0033 and 0116-0162].

However, Grieve does not explicitly show weight effectiveness of the identified implemented configuration changes.

In a configuration method, Little suggests weight effectiveness of the identified implemented configuration changes [see abstract and col. 2, ll. 09-42].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Grieve in view of Little by because this feature might instruct the user that when a new hardware or software system is being deployed [Little, col. 20, ll. 23-63]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to instruct the user to upgrade the firmware to the latest firmware [Little, col. 7, ll. 59-67].

16. With respect to claim 10, Grieve further teaches programmed instructions configured to analyze the computer system and propose configuration changes based on the analysis [fig.1 and paragraph 0004].

17. With respect to claims 12 and 19, Grieve further teaches programmed instructions configured to provide reports on implemented configuration changes [i.e. schedule summary **205**, paragraphs 0042 and 0083].

18. With respect to claims 13 and 20, Grieve further teaches wherein proposed

configuration changes with low weighted effectiveness are removed from a recommendation set [paragraphs 0026, 0045, 0049, 0072, 0080, 0082, 0098, 0114, and 0151].

Response to Arguments

19. Applicant's arguments filed November 06, 2008 have been fully considered but they are not persuasive because of the following: Grieve teaches a method of adjusting relative value of implemented computer configuration changes [see abstract and paragraphs 0007-0009], the method comprising: identifying computer configuration changes in a computer system [i.e. the system will detect the new device as having a configuration, which has changed since its last update, paragraph 0151]; obtaining performance metrics for the computer system before and after computer configuration changes [i.e. comparing old and new configurations] implemented in the computer system [paragraph 0033 and see abstract]; and assessing effectiveness of the computer configuration changes based on the obtained performance metrics [paragraphs 0116-0162].

20. In response to applicant's argument that Grieve does not explicitly show a database for obtaining performance metrics, the examiner respectfully disagree because the Applicant's argument does not commensurate with the scope of the claim. Claims 1 and 9 directly or indirectly recite a database. However, claims 1 and 13 do not recite the limitation of "a database for obtaining performance metric" (emphasis added).

Further, Grieve discloses a database [= the configuration history database 108, paragraphs 0016-0148] for obtaining performance metric [= a periodic history of configuration changes is developed and stored, including those that may have been made by technicians during debug and maintenance operations, paragraphs 0033 and 0148].

21. In response to applicant's argument that Grieve does not explicitly show removing computer configuration changes not resulting in performance improvements from future recommendation sets, the examiner respectfully disagree. Grieve discloses removing computer configuration changes not resulting in performance improvements from future recommendation sets [= removes the configuration form the configuration database, paragraphs 0080].

22. In response to applicant's argument that Grieve does not explicitly show summarizing recommended actions identified for a computer user, the examiner respectfully disagree. Grieve discloses summarizing recommended actions identified for a computer user [= schedule summary 205, paragraph 0042 and 0083]. Summarizing recommended is nothing more than a schedule summary. In addition, summarizing the effect on performance of actions recommended or taken is not commensurate with the scope of the claim.

23. In response to applicant's argument that Grieve does not explicitly show providing a report with performance trends on a plurality of computer systems where recommended configuration changes are not implemented, the examiner respectfully disagree. Grieve discloses providing a report with performance trends on a plurality of computer systems where recommended configuration changes are not implemented [= history configuration, fig.10 and recommending returning to the configuration, paragraph 0007]. For instance, history configuration keeps track or trace configuration of network that is nothing more than performances trends.

24. In response to applicant's argument that Grieve does not explicitly show analyzing computer metrics on the computer system and proposing configuration changes based on the analysis of computer metrics, the examiner respectfully disagree. Grieve discloses analyzing computer metrics on the computer system metrics [= analyzing a set of configurations for a device or group of devices and determine whether that configuration makes sense for the current state of the network, paragraph 0004] and proposing configuration changes based on the analysis of computer [paragraph 0007].

25. In response to applicant's argument that Grieve does not contain a filed for storing such information, the examiner respectfully disagree. Grieve disclose the database manager 108 contains a field for storing [paragraphs 0018-0148].

26. In response to applicant's argument that Little does not explicitly show increasing priority values, the examiner respectfully disagree. Little discloses increasing priority values [= a prioritized list of problems, col.2, ll.09-42].

Conclusion

27. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V. Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Thursday and every other Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone

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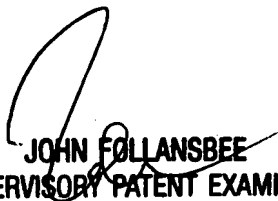
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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nghi Tran
Patent Examiner
Art Unit 2151

November 07, 2007


JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
